

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7420

JAMES A. BUTLER,

Plaintiff - Appellant,

versus

UNITED STATES DEPARTMENT OF JUSTICE; BUREAU OF
PRISONS,

Defendants - Appellees.

No. 03-7421

JAMES A. BUTLER,

Plaintiff - Appellant,

versus

WARDEN SHEARIN; T. HART; JOHN DOE; EDUCATION
DEPARTMENT,

Defendants - Appellees.

Appeals from the United States District Court for the District of
Maryland, at Baltimore. William M. Nickerson, Senior District
Judge. (CA-03-708-WMN; CA-03-1798)

Submitted: July 21, 2004

Decided: January 28, 2005

Before WIDENER, WILLIAMS, and KING, Circuit Judges.

No. 03-7420, dismissed; No. 03-7421, affirmed by unpublished per curiam opinion.

James A. Butler, Appellant Pro Se. Thomas Michael DiBiagio, United States Attorney, Baltimore, Maryland; Matthew Wayne Mellady, UNITED STATES DEPARTMENT OF JUSTICE, Annapolis Junction, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

James A. Butler appeals from the denial of his motion to stay (No. 03-7420) and the imposition of a pre-filing injunction (No. 03-7421). We affirm.

On June 18, 2003, James A. Butler filed a complaint seeking injunctive relief requiring an adequate law library in his prison. On June 25, the district court entered an order sanctioning Butler for filing "vexatious" litigation and limiting the number of cases Butler may have pending on the active docket. Butler appealed. After a close review of the record, we find no reversible error. The district court did not abuse its discretion in entering the pre-filing injunction. See Graham v. Riddle, 554 F.2d 133, 134-35 (4th Cir. 1977). Thus, we affirm.

At the time of the entry of the pre-filing injunction, one of Butler's pending cases was Butler v. United States, No. CA-03-708. On July 16, 2004, Butler filed a motion seeking to place the case on inactive status, in order to elevate another of his cases to the active docket. The district court found that Butler failed to show sufficient cause for the relief he sought and denied the motion. Butler appealed. We find that this order was a non-final, interlocutory order. See Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). Accordingly, we dismiss the appeal for lack of jurisdiction.

In sum, we affirm the order in No. 03-7421 and dismiss the appeal in No. 03-7420. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

No. 03-7420, DISMISSED;
No. 03-7421, AFFIRMED